

Message Text

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ACTION EB-08

INFO OCT-01 AF-10 ISO-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
STR-07 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 /111 W

-----010490 101903Z /45

R 091230Z JUN 78

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC 8042

C O N F I D E N T I A L NAIROBI 8692

E.O. 11652: GDS

TAGS: ETRD

SUBJ: REQUEST FOR INFORMATION ON LABOR STANDARDS

REF: STATE 136706

1. FOLLOWING RESPONSES ARE KEYED TO QUESTIONS POSED

PARA 3 REFTEL:

A. THERE IS NO SLAVE, INDENTURED OR OTHER FORCED LABOR IN KENYA. WHILE SLAVE AND INDENTURED LABOR ARE NOT EXPRESSLY BANNED BY EXISTING STATUTES, EMPLOYMENT IN KENYA IS REGULATED BY THE EMPLOYMENT ACT OF 1976. THIS ACT APPLIES TO ALL EMPLOYMENT OTHER THAN THAT BY KENYA POLICE, KENYA PRISON SERVICE, THE ARMED FORCES, OR THE NATIONAL YOUTH SERVICE, WHICH ARE SPECIFICALLY EXEMPTED. THE ACT SETS FORTH OBLIGATORY CONDITIONS OF EMPLOYMENT INVOLVING PAYMENT OF WAGES, AND LEAVE AND OTHER BENEFITS WITH WHICH SLAVE OR INDENTURED LABOR ARE NOT COMPATIBLE.

B. SECTION 25 OF THE EMPLOYMENT ACT OF 1976 STATES THAT "NO PERSON SHALL EMPLOY A CHILD, WHETHER GAINFULLY OR OTHERWISE, IN ANY INDUSTRIAL UNDERTAKING." SECTION 2

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(DEFINITIONS) OF THE SAME ACT STATES THAT "CHILD MEANS AN INDIVIDUAL, MALE OR FEMALE, WHO HAS NOT ATTAINED THE AGE OF SIXTEEN YEARS."

C. KENYA DOES NOT APPEAR TO HAVE STATUTES OR REGULATIONS PROMULGATED BY THE EXECUTIVE MAKING SPECIFIC REFERENCE TO WORKER EXPOSURE TO SPECIFIC TOXIC SUBSTANCES

MENTIONED REFTEL. HOWEVER, SAFETY CONDITIONS AT WORK PLACE ARE GENERALLY REGULATED BY THE FACTORIES ACT OF 1972, AND EXECUTIVE ORDERS PURSUANT TO THAT ACT. THE FACTORIES ACT LAYS DOWN GENERAL HEALTH AND SAFETY STANDARDS AND ESTABLISHES AN ADMINISTRATIVE MECHANISM TO ENFORCE THEM. SECTION 51 (1) OF THE ACT STATES THAT "IN EVERY FACTOR IN WHICH, IN CONNEXION WITH ANY PROCESS CARRIED ON, THERE IS GIVEN OFF ANY DUST OR FUME OR OTHER IMPURITY OF SUCH A CHARACTER AND TO SUCH EXTENT AS TO BE LIKELY TO BE INJURIOUS OR OFFENSIVE TO THE PERSONS EMPLOYED, OR ANY SUBSTANTIAL QUANTITY OF DUST OF ANY KIND, ALL PRACTICABLE MEASURES SHALL BE TAKEN TO PROTECT THE PERSONS EMPLOYED AGAINST INHALATION OF THE DUST OR FUME OR OTHER IMPURITY AND TO PREVENT ITS ACCUMULATING IN ANY WORKROOM, AND IN PARTICULAR, WHERE THE NATURE OF THE PROCESS MAKES IT PRACTICABLE, EXHAUSE APPLIANCES SHALL BE PROVIDED AND MAINTAINED, AS NEAR AS POSSIBLE TO THE POINT OF ORIGIN OF THE DUST OR FUME OR OTHER IMPURITY, SO AS TO PREVENT IT ENTERING THE AIR OF ANY WORKROOM." UNDER THE FACTORIES ORDER, IT IS REQUIRED THAT AN ABSTRACT OF THE FACTORIES ACT BE POSTED IN A PROMINENT POSITION IN EACH FACTORY. THE ABSTRACT CONTAINS INTER ALIA THE FOLLOWING REFERENCES TO WORKER EXPOSURE TO HARMFUL SUBSTANCES:

1. REMOVAL OF DUST OR FUMES--WHERE, IN CONNEXION WITH ANY PROCESS, DUST OR FUME LIKELY TO BE INJURIOUS OR OFFENSIVE,
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OR ANY SUBSTANTIAL QUANTITY OF DUST OF ANY KIND, IS GIVEN OFF, ALL PRACTICABLE MEASURES MUST BE TAKEN TO PROTECT THE WORKERS AGAINST INHALING IT, AND WHERE PRACTICABLE LOCALIZED EXHAUST VENTILATION MUST BE PROVIDED AND MAINTAINED.

2. PROTECTIVE CLOTHING AND APPLIANCES.--SUITABLE PROTECTIVE CLOTHING AND APPLIANCES, INCLUDING, WHERE NECESSARY, SUITABLE GLOVES, FOOTWEAR, GOGGLES AND HEAD COVERINGS, MUST BE PROVIDED AND MAINTAINED FOR THE USE OF WORKERS EMPLOYED IN ANY PROCESS INVOLVING EXPOSURE TO WET OR TO ANY INJURIOUS OR OFFENSIVE SUBSTANCE.

D. KENYA HAS NO FREE TRADE ZONES. IT HAS NO SPECIAL EXPORT OR IMPORT SUBSTITUTION INDUSTRIES WHICH BENEFIT FROM DIFFERENTIAL LABOR STANDARDS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LABOR, STANDARDS, EMPLOYMENT
Control Number: n/a
Copy: SINGLE
Draft Date: 09 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978NAIROB08692
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780243-0713
Format: TEL
From: NAIROBI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780676/aaaacnqd.tel
Line Count: 110
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 5bd7428c-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 136706
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 28 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2416716
Secure: OPEN
Status: NATIVE
Subject: REQUEST FOR INFORMATION ON LABOR STANDARDS
TAGS: ETRD, KE
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/5bd7428c-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014